



March 23, 2005

ENGROSSED SENATE BILL No. 54

DIGEST OF SB 54 (Updated March 22, 2005 5:25 pm - DI 107)

Citations Affected: IC 34-6; IC 34-30; noncode.

Synopsis: Immunity for uncompensated health services and immunity for advertisers or sponsors. Provides immunity from civil liability for: (1) certain health care providers providing certain services without compensation; and (2) advertisers or sponsors of certain events.

Effective: July 1, 2005.

Riegsecker, Howard

(HOUSE SPONSOR — FOLEY)

January 4, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

February 10, 2005, amended, reported favorably — Do Pass.

February 21, 2005, read second time, ordered engrossed.

February 22, 2005, engrossed.

February 24, 2005, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 8, 2005, read first time and referred to Committee on Judiciary.

March 22, 2005, amended, reported — Do Pass.

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ES 54—LS 6413/DI 97+



March 23, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 54

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-6-2-3.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 3.3. (a) "Advertiser or sponsor", for purposes of**
4 **IC 34-30-21, means a person who for political, commercial,**
5 **educational, benevolent, or charitable purposes:**
6 **(1) donates or contributes money, materials, or products; or**
7 **(2) pays fees to advertise or display trademarks;**
8 **in connection with an event.**
9 **(b) The term does not include a person who exercises primary**
10 **control over an event.**
11 SECTION 2. IC 34-6-2-44.3 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2005]: **Sec. 44.3. "Event", for purposes of section 3.3 of this**
14 **chapter and IC 34-30-21, means:**
15 **(1) a performance;**
16 **(2) a benefit;**
17 **(3) a fundraiser;**

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- (4) an auction;
- (5) a meal;
- (6) a concert;
- (7) a sporting event;
- (8) a festival;
- (9) a parade;
- (10) a reception;
- (11) a trade show;
- (12) a convention;
- (13) an educational program; or
- (14) another occasion organized by or for a federally tax-exempt organization.

SECTION 3. IC 34-30-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Except as provided in section 2 of this chapter, a person who meets the following criteria is immune from civil liability resulting from any act or omission relating to the provision of health care services:

- (1) Has licensure to provide health care services under Indiana law.
- (2) Voluntarily provides without compensation health care services under IC 36-1-14.2 within the scope of the person's license to another person.
- (3) Provides the health care services at any medical clinic or health care facility that **provides health care services without charge and that:**
 - (A) purchases professional liability insurance under IC 36-1-14.2; ~~and or~~
 - ~~(B) provides the health care services without charge.~~
 - (B) is covered under 42 U.S.C. 233.**

SECTION 4. IC 34-30-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 21. Events: Immunity of Advertiser or Sponsor

Sec. 1. This chapter does not grant immunity from civil liability to the following:

- (1) A person who engages in intentional, willful, wanton, or reckless behavior.
- (2) A person who contractually assumes civil liability in connection with an event.
- (3) A person who fails to exercise reasonable care in connection with the direction or control of an event.
- (4) A person who provides defective materials or products or

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1 fails to exercise reasonable care in providing materials or
2 products.

3 Sec. 2. An advertiser or sponsor of an event is immune from
4 civil liability for the acts or omissions of:

5 (1) the advertiser or sponsor; and

6 (2) any other person;

7 in connection with the event.

8 Sec. 3. An advertiser or sponsor of an event may not be
9 considered to be:

10 (1) part of a joint venture;

11 (2) the principal of an agent; or

12 (3) the employer of an employee;

13 with regard to a person participating in the event in a capacity
14 other than that of an advertiser or sponsor.

15 SECTION 5. [EFFECTIVE JULY 1, 2005] IC 34-30-13-1, as
16 amended by this act, applies to a cause of action that arises after
17 June 30, 2005.

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SENATE MOTION

Madam President: I move that Senator Howard be added as coauthor of Senate Bill 54.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 54, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, reset in roman "under IC 36-1-14.2".

Page 1, reset in roman lines 11 through 12.

Page 1, line 12, delete ":" and insert "**provides health care services without charge and that:**".

Page 1, reset in roman line 13.

Page 1, line 14, reset in roman "IC 36-1-14.2;"

Page 1, line 14, after "and" insert "**or**".

Page 1, between lines 15 and 16, begin a new line double block indented and insert:

"(B) is covered under 42 U.S.C. 233."

Page 1, delete lines 16 through 17.

Page 2, delete lines 1 through 27.

Page 2, line 28, after "IC 34-30-13-1" insert ",".

Page 2, line 28, delete "and".

Page 2, line 29, delete "IC 34-30-13-2, both".

Page 2, line 29, delete "and IC 34-30-13-1.5,".

Page 2, line 30, delete "as added by this act, apply" and insert "**applies**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 54 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 6, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 54, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 34-6-2-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.3. (a) "Advertiser or sponsor", for purposes of IC 34-30-21, means a person who for political, commercial, educational, benevolent, or charitable purposes:**

(1) donates or contributes money, materials, or products; or

(2) pays fees to advertise or display trademarks;

in connection with an event.

(b) The term does not include a person who exercises primary control over an event.

SECTION 2. IC 34-6-2-44.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 44.3. "Event", for purposes of section 3.3 of this chapter and IC 34-30-21, means:**

(1) a performance;

(2) a benefit;

(3) a fundraiser;

(4) an auction;

(5) a meal;

(6) a concert;

(7) a sporting event;

(8) a festival;

(9) a parade;

(10) a reception;

(11) a trade show;

(12) a convention;

(13) an educational program; or

(14) another occasion organized by or for a federally tax-exempt organization."

Page 1, after line 17, begin a new paragraph and insert:

"SECTION 4. IC 34-30-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 21. Events: Immunity of Advertiser or Sponsor

Sec. 1. This chapter does not grant immunity from civil liability

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to the following:

- (1) A person who engages in intentional, willful, wanton, or reckless behavior.
- (2) A person who contractually assumes civil liability in connection with an event.
- (3) A person who fails to exercise reasonable care in connection with the direction or control of an event.
- (4) A person who provides defective materials or products or fails to exercise reasonable care in providing materials or products.

Sec. 2. An advertiser or sponsor of an event is immune from civil liability for the acts or omissions of:

- (1) the advertiser or sponsor; and
- (2) any other person;

in connection with the event.

Sec. 3. An advertiser or sponsor of an event may not be considered to be:

- (1) part of a joint venture;
- (2) the principal of an agent; or
- (3) the employer of an employee;

with regard to a person participating in the event in a capacity other than that of an advertiser or sponsor."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 54 as printed February 11, 2005.)

FOLEY, Chair

Committee Vote: yeas 11, nays 1.

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